



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,851	03/08/2004	Robert C. Angell	12406/5402	2446

26646 7590 01/22/2007
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

SAGER, MARK ALAN

ART UNIT	PAPER NUMBER
----------	--------------

3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/796,851

Applicant(s)

ANGELL ET AL.

Examiner

M. A. Sager

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/18/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Priority

2. The later-filed application must be an application for a patent for an invention that is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed grandparent application, Application No. 08844764, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. Grand-parent application no. 08844764, now U.S. Patent No. 5938200, fails to provide adequate support or enablement for any pending claims; thus, priority of instant application is as of the filing date of parent 09342150, now U.S. Patent No. 6702672, which was filed June 29, 1999. It is noted that Patentee filed a certificate of correction in parent application 09342150 that altered continuation data from 08844794 to 08844764 and any change of continuation data must be provided within parent file. Applicant is reminded of timing of claiming priority. 37 CFR 1.78.

Claim Rejections - 35 USC § 102

3. Claims 1, 3-6, 8-12, 15, 17-18, 20-21, 23-24, 26-27, 38-41 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker (WO 96/00950). As best understood with broadest

Art Unit: 3712

reasonable interpretation of claims, Walker discloses a remote gaming system and method teaching claimed steps/features (abstract, 3:2-13:32, figs. 1-15D) including a wireless hand held gaming device (ref 14, 82, PDA, laptop), comprising an id code uniquely associated with player or gaming device (ref 32, 34), entry apparatus (ref 20, 86) for entering wagering information such as a request or command and data to form a bet comprising a string of characters (22:9-27, 25:37-26:34, 29:18-41:23, FIGS, 1-15D), a transmitter transmitting by radio frequency (PDA or laptop inherently transmit/receive by radio) the player's wager information and the identification code in an encrypted form (23:15-22, 24:15-26, 33:9-33:32), wager amount register and account balance register (sic, Fig 1A-1B shows wager and total amount available displayed on screen and thus, memory such as register is inherent for storing wager amount and amount available, account balance), a card reader/writer including smart card (4:29, ref 91), an encryption key and a decryption key (supra), a database (sic, ref 16), including storing in a chip or ROM an identifier corresponding to the identification code (18:18-25, 24:15-26, 38:9-26, ref. 32, 34) further comprising steps providing the wireless gaming device (15:24-28, 16:4-19:16, 29:18-25, 37:19-24) comprising an entry apparatus (ref 86) for entering wagering information (supra), a transmitter (sic), an identification code stored on the wireless gaming device (18:18-25, 24:15-26, 38:9-26, ref. 32, 34), entering the wagering information into the entry apparatus (30:15-31:4), transmitting the identification code and the wagering information in an encrypted form (sic), receiving and decrypting the transmitted identification code and wagering information (33:6-36), a display for displaying the wagering information (fig. 1A-1B, ref 18, 84), receiving monetary tender (26:35-29:28, 35:5-9), establishing an account having account balance (29:18-28, 34:24-35:9), associating a wireless device having a stored identification code stored on the wireless

Art Unit: 3712

gaming device (18:18-25, 24:15-26, 38:9-26), providing the player the wireless device (sic), receiving the identification code and wagering information (32:18-33:36), registering the players wager in the database based on the wagering information and the identification code (24:15-26:34, 29:35-31:4, 34:24-36:8, fig 1-15D, esp. 4, 7C, 9), debiting the account balance (30:15-31:23, fig. 7A), determining if the player wager wins a prize, and crediting account balance (30:15-31:23, fig. 7A), receiving the wireless device from player and tendering money to player based on the account balance (36:9-37:29, 40:13-41:23).

4. Claims 1, 3-6, 8-13, 15, 17-18, 20-21, 23-24, 26-27, 38-39 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Lupton, (WO 97/01145). As best understood with broadest reasonable interpretation of claims, Lupton discloses a betting system comprising a wireless gaming device (abstract, fig 5) comprising an identification code (abstract, inherent due to use of smart card containing user id code, see Bergeron '666 or Sarbin as evidence only), entry apparatus (abstract, fig. 1-5, 7), an LCD display displaying wagering information (abstract, 6:3-9:26), transmitter and receiver (abstract, 7:9-12, figs 1-5, 7-8), smart card reader (abstract, 6:3-9:26) where wireless transmission is by radio frequency signals (figs. 1-3, 5).

Claim Rejections - 35 USC § 103

5. Claim 7 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Walker or Lupton. Regarding claim 7, Walker (22:9-27, 24:15-26:34, 29:35-31:4, 34:24-36:8, fig 1-15D, esp. 4, 7C, 9) and Lupton (abstract, 6:3-9:26, fig. 1-5, 7-8) each discloses claimed invention (supra) but does not clearly discuss string of characters such as selected wager elements being hexadecimal digits. An inventor does not need to discuss in their specification that which is old or conventional and

preferably omits from their disclosure that which is conventional. Such is the case with Walker or Lupton in that Walker and Lupton each does not disclose hexadecimal digits since it is conventional at least due to program language read by wireless device compiler, i.e. processor, translates inputs and program to assembler language which is in hexadecimal digits that is further translated to binary code of machine language. Also, wagering information entry such as 1000 is a 4-digit hexadecimal character string in Walker or Lupton. Alternatively, the form of characters being hexadecimal (0-9 and A-F), or base sixteen, fails to patentably distinguish over Walker or Lupton since Walker or Lupton at least since it is notoriously well known for computer compilers/processor to translate program language to assembler language which uses hexadecimal digits prior to translating to binary or machine code. This is hornbook engineering or basic computer programming. Regarding claim 19, Walker (16:21-35, 38:18-25, ref 23) discloses claimed system including a memory storing identification code (sic) including ROM chip. Lupton discloses claimed system with smart card storing identification code where the smart card memory device is EPROM as conventional. An inventor does not need to discuss in their specification that which is old or conventional and preferably omits from their disclosure that which is conventional. Such is the case with Walker or Lupton in that Walker or Lupton does not state ROM chip or memory is EPROM; however, such chips were conventional. As evidence only, Bergeron (4764666) or Sarbin (5179517) each discloses a memory storing an identification code where the memory is EPROM for ease of reprogramming data stored in ROM. Walker also uses smart card (sic). Alternatively, it would have been obvious to an artisan at a time prior to the invention to add EPROM to Walker or Lupton to permit ease of reprogramming data stored in ROM.

Art Unit: 3712

6. Claims 13, 16 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Franchi (5770533). Walker discloses claimed features of invention (sic) including a display and wireless communication except LCD (claim 13) and infrared signals (claim 16, 25). Franchi (15:26-16:22) discloses a wireless handheld gaming device comprising an LCD screen and infrared signals. However, an LCD for displaying and infrared signals for communicating is each notoriously well known in gaming. Infrared signals permit wireless remote direct communication; while, LCD permits easy to read display. Franchi is analogous art at least due to either being in the field of applicant's endeavor or, is reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Therefore, it would have been obvious to an artisan at a time prior to the invention to add LCD and infrared signals as notoriously well known or as taught by Franchi to Walker to provide an easy to read display and to provide wireless remote direct communication.

7. Claims 16 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lupton in view of Franchi (5770533). Lupton discloses claimed features of invention (sic) including a wireless communication except infrared signals (claim 16, 25). Franchi (15:26-16:22) discloses a wireless handheld gaming device comprising infrared signals. However, infrared signals for communicating are notoriously well-known in gaming. Infrared signals permit wireless remote direct communication. Franchi is analogous art at least due to either being in the field of applicant's endeavor or, is reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Therefore, it

Art Unit: 3712

would have been obvious to an artisan at a time prior to the invention to add infrared signals as notoriously well known or as taught by Franchi to Lupton to provide an easy to read display and to provide wireless remote direct communication.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Lupton or Walker each in view of Pease (5326014). Lupton and Walker each discloses claimed features but lacks disclosing bicolour light emitting diode. Use of LED as an indicator is well known in gaming. Pease disclose use of tricolour LED as an indicator (9:55-10:55). It is known in gaming to provide indication of either game state or device operability state. Thus, it would have been obvious to an artisan at a time prior to the invention to add bicolour LED as taught by Pease to either Lupton or Walker to provide an indicator of operability or game state so as to alert user. Also, while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also In re Swinehart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original). In this instance, the prior art of either Lupton or Walker each in view of Pease teaches use of bicolour LED (i.e. structure) to provide an indicator to user of either game state or operability state of device. Further, a claim containing a "recitation with respect to the

Art Unit: 3712

manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987) (The preamble of claim 1 recited that the apparatus was “for mixing flowing developer material” and the body of the claim recited “means for mixing ..., said mixing means being stationary and completely submerged in the developer material”. The claim was rejected over a reference that taught all the structural limitations of the claim for the intended use of mixing flowing developer. However, the mixer was only partially submerged in the developer material. The Board held that the amount of submersion is immaterial to the structure of the mixer and thus the claim was properly rejected.). Although, Pease provides use of LED to indicate another facet of game play, this does not teach away from claimed invention. It is known in gaming to provide indication of either game state or device operability state. The claimed ‘to indicate separately that the wagering information has been entered and wagering information has been transmitted’ is a functional recitation pertaining to operational status indicator of device. The standard of patentability remains as what the prior art taken as a whole would have suggested to an artisan at a time prior to the invention. In this instance, either Lupton or Walker each in view of Pease taken at a time prior to the invention suggests to an artisan a wireless gaming device including a bicolor LED to provide an indication of either game state or operability status to user.

9. Claims 2, 22, 28-34 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Lupton or Walker each in view of Woodfield (EP 0649102). Lupton or Walker each discloses claimed system, method and device (supra) including encryption and decryption of transmitted signals except periodically polls the wireless gaming device to determine whether the

Art Unit: 3712

player has entered wagering information to be transmitted to the receiver (claim 2), periodically polling the wireless gaming device to determine whether the player has entered wagering information (claim 22), the transmitter transmitting the signal when the receiver polls the wireless gaming device to determine that the wagering information has entered (claim 28) and the wireless gaming device is periodically polled by the receiver (claim 29). Woodfield discloses system, device and method for transmitting wagering information while commanding placing of bets (4:4-15:24, figs. 1-4) comprising a wireless gaming device that includes an identification code (7:15-16), entry apparatus (6:6-18, refs. 15-16), and transmitter (18, 9), a receiver (4, 7, 8, 27) for receiving identification code and wagering information (15:16-24), the receiver polling the wireless gaming device (7:30-8:5, 15:16-24) to determine whether the player has entered wagering data to be transmitted. Woodfield teaches claimed polling by a receiver (7:15-8:5, 15:16-24) so as to conserve power (7:30-43) to include periodically polls the wireless gaming device to determine whether the player has entered wagering information to be transmitted to the receiver (7:15-8:5, 15:16-24) periodically polling the wireless gaming device to determine whether the player has entered wagering information (sic), the transmitter transmitting the signal when the receiver polls the wireless gaming device to determine that the wagering information has entered (sic) and the wireless gaming device is periodically polled by the receiver (supra) such that a receiver periodically polls the wireless gaming device to determine if new data has been entered where data is environment of use such as wagering and Woodfield clearly states use of wireless device to place bets on sporting events, i.e. wagering. Thus, it would have been obvious to an artisan at a time prior to the invention to add periodically polls the wireless gaming device to determine whether the player has entered wagering information to be transmitted to the

Art Unit: 3712

receiver, periodically polling the wireless gaming device to determine whether the player has entered wagering information, the transmitter transmitting the signal when the receiver polls the wireless gaming device to determine that the wagering information has entered and the wireless gaming device is periodically polled by the receiver as taught by Woodfield to either Lupton or Walker to conserve power. Also, a claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987) (The preamble of claim 1 recited that the apparatus was “for mixing flowing developer material” and the body of the claim recited “means for mixing ..., said mixing means being stationary and completely submerged in the developer material”. The claim was rejected over a reference that taught all the structural limitations of the claim for the intended use of mixing flowing developer. However, the mixer was only partially submerged in the developer material. The Board held that the amount of submersion is immaterial to the structure of the mixer and thus the claim was properly rejected.). Further, while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference relating to function did not defeat the Board’s finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also *In re Swinehart*, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). “[A]pparatus claims cover what a device is, not what a device does.”

Art Unit: 3712

Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original). The standard of patentability is what the prior art taken as a whole suggests to an artisan at a time prior to the invention. In this case, when either Lupton or Walker each in view of Woodfield is taken as a whole at a time prior to the invention, the combination suggests to an artisan a wireless gaming system, method or device comprising a wireless gaming device that includes periodically polls the wireless gaming device to determine whether the player has entered wagering information to be transmitted to the receiver, periodically polling the wireless gaming device to determine whether the player has entered wagering information, the transmitter transmitting the signal when the receiver polls the wireless gaming device to determine that the wagering information has entered and the wireless gaming device is periodically polled by the receiver so as to conserve power.

10. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Lupton or Walker each in view of Woodfield as applied to claim 28 above, and further in view of Franchi. Lupton or Walker each in view of Woodfield discloses/suggests claimed wireless device (supra) except infrared signals. Franchi (15:26-16:22) discloses a wireless handheld gaming device comprising infrared signals. However, infrared signals for communicating are notoriously well-known in gaming. Infrared signals permit wireless remote direct communication. Franchi is analogous art at least due to either being in the field of applicant's endeavor or, is reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Therefore, it would have been obvious to an artisan at a time prior to the invention to add LCD and infrared signals as notoriously well known or as taught by

Art Unit: 3712

Franchi to either Lupton or Walker each in view of Woodfield to provide wireless remote direct communication.

11. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Lupton or Walker each in view of Jacobson (5785592). Lupton or Walker each discloses/suggests claimed wireless device (supra) except a security tag, sensing apparatus as claimed. Jacobsen discloses a wireless handheld game device that is used for placing wagers teaching a security tag affixed to or included as part of wireless terminal and a sensing apparatus which activates an alarm when the security tag is passed through the sensing apparatus for increased security to ensure terminal/device does not leave gaming hall. Jacobsen is analogous prior art since Jacobsen is either in the field of applicant's endeavor of wireless wagering handheld device (fig 1-4, ref 20, 96 and description thereof) or, at least is reasonably pertinent to the particular problem with which the applicant was concerned of improved security by adding electronic tag to device/terminal to alert security if wireless wagering device passes through portal (fig. 4), so as to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Therefore, it would have been obvious to an artisan at a time prior to the invention to add a security tag affixed to or included as part of wireless terminal and a sensing apparatus which activates an alarm when the security tag is passed through the sensing apparatus as taught by Jacobsen to either Lupton or Walker for increased security to alert security whenever terminal/device is in process of leaving gaming hall.

12. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Lupton or Walker each in view of Woodfield as applied to claim 28 above, and further in view of Jacobson (5785592). Lupton or Walker each in view of Woodfield discloses/suggests claimed wireless

Art Unit: 3712

device (supra) except a security tag, sensing apparatus as claimed. Jacobsen discloses a wireless handheld game device that is used for placing wagers teaching a security tag affixed to or included as part of wireless terminal and a sensing apparatus which activates an alarm when the security tag is passed through the sensing apparatus for increased security to ensure terminal/device does not leave gaming hall. Jacobsen is analogous prior art since Jacobsen is either in the field of applicant's endeavor of wireless wagering handheld device (fig 1-4, ref 20, 96 and description thereof) or, at least is reasonably pertinent to the particular problem with which the applicant was concerned of improved security by adding electronic tag to device/terminal to alert security if wireless wagering device passes through portal (fig. 4), so as to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Therefore, it would have been obvious to an artisan at a time prior to the invention to add a security tag affixed to or included as part of wireless terminal and a sensing apparatus which activates an alarm when the security tag is passed through the sensing apparatus as taught by Jacobsen to either Lupton or Walker each in view of Woodfield for increased security to alert security whenever terminal/device is in process of leaving gaming hall.

Response to Arguments

13. Applicant's arguments with respect to claims 1-44 have been considered but are moot in view of the new ground(s) of rejection. Although not forming any part of holdings herein, Jonstromer, (WO 96/32700) similarly to Lupton appears to anticipate or render obvious claimed invention.

Art Unit: 3712

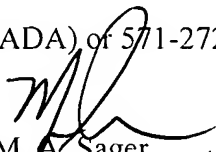
Conclusion

14. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


M. A. Sager
Primary Examiner
Art Unit 3712

mas